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JAN 26 2004
PATENT & TRADEMARK OFFICE

S/N 09/970,146

PATENT # 7
B. Webb
2/4/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eric Lovett et al.

Examiner: Schaetzle, Kennedy

Serial No.: 09/970,146

Group Art Unit: 3762

Filed: October 2, 2001

Docket: 279.262US1

Title: MEDICAL DEVICE HAVING RHEOMETRIC MATERIALS AND METHOD
THEREFOR

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

Sir:

Applicant has reviewed the Office Action dated November 21, 2003 requiring the applicant to elect a species. However, the Office Action fails to define species from which to choose. Applicant therefore reserves the right to traverse the restriction requirement.

As best understood from the Restriction Requirement dated November 21, 2003, Applicant elects to prosecute the species for an elongate medical device, including rheometric material associated therewith. Applicant elects to prosecute the species recited above that includes the following subspecies: a strip of rheometric material wound around a longitudinal axis of the device body; where the rheometric material includes an electroactive polymer; where at least one assembly is disposed adjacent to the distal end of the device body; where energy is applied to each assembly simultaneously; where energy is applied to each assembly at different times; where selectively varying the stiffness of the device body includes bracing the device body against movement; and where selectively varying the stiffness of the device body includes moving the device body within a passage. Applicant respectfully submits that claims 1, 3-10, 12-14, 16, 21-23, 26, 28, 29, 33, 38-43, 45-48, 50, 51, and 57 read thereon, with at least claims 1, 9, 23, 28, 38, and 50 being generic.

This response is accompanied by a Petition, as well as the appropriate fee, to obtain a 1-month extension of the period for responding to the Office Action, thereby moving the deadline for response from December 21, 2003 to January 21, 2004.

The Examiner is invited to contact Applicant's Representatives at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

Respectfully submitted,

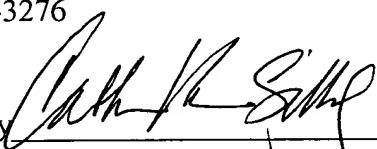
ERIC LOVETT ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 359-3276

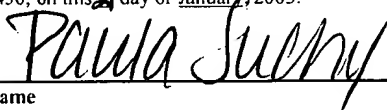
Date Jan. 21, 2004

By

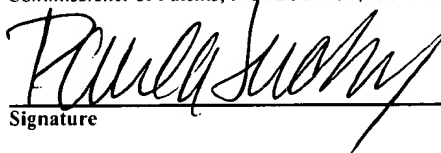

Catherine I. Klima-Silberg
Reg. No. 40,052

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of January, 2003.

Name



Signature



3762/8

Applicant: Eric G. Lovett et al.

Title: MEDICAL DEVICE HAVING RHEOMETRIC MATERIALS AND METHOD THEREFOR

Docket No.: 279.262US1

Filed: October 2, 2001

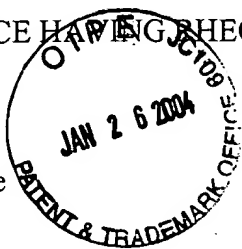
Examiner: Kennedy Schaetzle

Serial No.: 09/970,146

Due Date: January 21, 2004

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



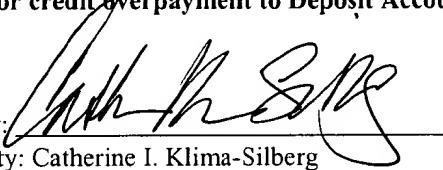
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We are transmitting herewith the following attached items (as indicated with an "X"):

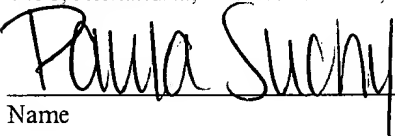
- ☒ A return postcard.
- ☒ A Resposne to Restriction Requirement (2 Pages).
- ☒ A Petition for Extension of Time (1 pg.)
- ☒ A check in the amount of \$110.00 to cover the Extension of Time Fee.

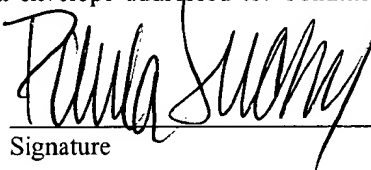
If not provided for in a separate paper filed herewith, consider this a **PETITION FOR EXTENSION OF TIME** for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
Customer Number 21186

By: 
Atty: Catherine I. Klima-Silberg
Reg. No. 40,052

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of January, 2004.


Name


Signature

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
(GENERAL)